

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

ASHER WORLDWIDE ENTERPRISES LLC,
d/b/a , RELIABUY.COM

Plaintiff,

v.

SUR LA TABLE, INC., and
HOUSEWARESONLY.COM, and
RESTAURANTKITCHENWAREHOUSE.COM

Defendants.

Cause No.

COMPLAINT FOR
COPYRIGHT INFRINGEMENT
FALSE DESIGNATION OF
ORIGIN AND UNFAIR
BUSINESS PRACTICES

JURY TRIAL DEMANDED

Plaintiff Asher Worldwide Enterprises LLC (“AWE”), d/b/a Reliabuy.Com complains
of Defendants as follows:

PARTIES

1. AWE is a limited liability corporation formed under the laws of the State of
Arizona having a principal place of business in Scottsdale, Arizona.

2. Upon information and belief, Defendant Sur La Table, Inc., (“Sure La Table”) is a Washington Corporation with a principle place of business in Seattle, Washington.

3. Upon information and belief, Housewaresonly.com is a California Limited Liability Company with a principle place of business in Sausalito California.

4. Upon information and belief, RestaurantKitchenWarehouse.com is an Illinois Corporation with a principal place of business in Wilmette, Illinois.

5. Upon information and belief, Sur La Table, Inc. is engaged in the business of providing various cookware, bakery, cutlery, dinnerware and related merchandise to consumers throughout the United States, the State of Washington and in this district.

6. Upon information and belief, Defendants Housewaresonly.com and RestaurantKitchenWarehouse.com are engaged in the business of operating websites through which various types of commercial and home kitchen and restaurant equipment are offered and sold to purchasers and potential customers throughout the United States, the State of Washington and in this district.

JURISDICTION AND VENUE

7. This is an action for copyright infringement under 17 U.S.C. §501 et seq., federal false designation of origin, unfair competition and unfair business practices arising under the Lanham Act, 15 U.S.C. § 1051 et seq., and the Washington Consumer Protection Act, RCW § 19.86 et seq.

8. This Court has subject matter jurisdiction pursuant to 17 U.S.C. § 501(a) and 28 U.S.C. § 1331.

9. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400 because the Defendants conduct business within this judicial district, and they or their agents or affiliates can be found in this judicial district. Acts giving rise to this complaint occurred within this judicial district.

FACTS

10. AWE is the owner and operator of an Internet website known as “Reliabuy.com” AWE has operated the website since at least as early as October 2008 and has operated it continuously since then.

11. The “Realiabuy.com” website promotes and provides discount commercial kitchen and restaurant equipment to purchasers and potential customers throughout the United

1 States. The “Reliabuy.com” website contains product listings for hundreds of types of
2 machines, appliances and other devices used in both commercial and home kitchens,
3 restaurants and other such facilities.

4 12. In the course of creating and operating his “Reliabuy.com” website, AWE,
5 and/or others acting on its behalf, created, wrote and developed many of the descriptions,
6 product feature listings and other promotional materials that appear on the site and that
7 accompany the various products that are listed for sale on the “Reliabuy.com” site. Such
8 descriptions, product feature listings and other promotional materials constitute original works
9 of authorship for which AWE has and claims copyright. Such descriptions, product feature
10 listings and other promotional materials constitute valuable intellectual property assets of
11 AWE and are important to the operation and success of its “Reliabuy.com” website.

12 13. AWE has applied for registration of various ones of its descriptions, product
13 feature listings and other promotional materials with the United States Copyright Office.
14 True and correct copies of the copyright registration applications AWE has filed with the
15 United States Copyright Office are attached as Exhibit A.

16 **14. Sur La Table, Inc. Rankings**

17 15. Defendant Housewaresonly.com is a website accessible by and available to
18 users throughout the United States including in this District. The Housewaresonly.com
19 website features and makes available for purchase various restaurant, kitchen and other
20 appliances in direct competition with AWE and its Reliabuy.com site.

21 16. Defendant Housewareonly.com has, without the authorization or permission of
22 AWE, copied and duplicated many of the descriptions, product feature listings and other
23 promotional materials created by AWE or on its behalf and that are the subjects of the
24 copyright registrations filed by AWE. True and correct copies of the descriptions, product
25 feature listings and other promotional materials used by Housewaresonly.com and that
26 duplicate the copyrighted works of AWE are attached as Exhibit B.
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1 17. Defendant RestaurantKitchenWarehouse.com has, without the authorization or
2 permission of AWE, copied and duplicated many of the descriptions, product feature listings
3 and other promotional materials created by AWE or on its behalf and that are the subjects of
4 the copyright registrations filed by AWE. True and correct copies of the descriptions, product
5 feature listings and other promotional materials used by RestaurantKitchenWarehouse.com
6 and that duplicate the copyrighted works of AWE are attached as Exhibit C.

7 18. Upon information and belief, Defendants Housewaresonly.com and
8 RestaurantKitchenWarehouse.com are agents of Defendant Sur La Table, Inc. In particular,
9 Sur La Table, Inc. is listed as the owner of various materials used by and/or submitted to
10 Defendants Housewaresonly.com and/or RestaurantKitchenWarehouse.com. True and correct
11 copies of portions of the Housewaresonly.com and RestaurantKitchenWarehouse.com
12 website referencing Defendant Sur La Table, Inc. are attached as Exhibit D.

13 18. Upon information and belief, Defendant Housewaresonly.com has attempted to
14 capitalize on Reliabuy's long-standing reputation by using Reliabuy's tradename on its
15 website without permission. Attached as Exhibit F are true and correct copies of materials
16 published on the Housewaresonly.com website that suggest that Housewaresonly.com owns,
17 is associated with or is otherwise related to Reliabuy.com.

18 19. Attached as Exhibits G and H are true and correct copies of materials
19 downloaded from the Internet showing that when consumers search Google for the term
20 "Reliabuy" the results pages prominently display Housewaresonly.com website pages and
21 links.

22 20. Upon information and belief, Defendant Housewaresonly.com has engaged in
23 the organized and systematic cloning of new products and product descriptions from the
24 Reliabuy.com website on at least 3 separate occasions. Specifically, between October 29,
25 2009 and January 27, 2010, Reliabuy.com published sixty-five original product listings with
26 descriptions on the Reliabuy.com website. Between March 17, 2010 and July 17, 2010,
27 Defendant Housewaresonly.com copied and published forty-seven of these sixty-five products
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1 on their Housewaresonly.com website without permission or other authorization from
2 Reliabuy. On August 11, 2010, Reliabuy published an additional twenty-five product
3 descriptions on its website and on September 22, 2010, Defendant Housewaresonly.com
4 copied and published all twenty-five of these product descriptions on their website without
5 permission. Between September 9, 2010, Reliabuy.com published one-hundred-thirty-nine
6 additional product descriptions on the Reliabuy.com website and by October 22, 2010,
7 Housewaresonly.com copied seventy-five of these one-hundred-thirty-nine product
8 descriptions and published them on their website without permission or other authorization.
9 Another one-thousand products were uploaded to the Reliabuy.com website between October
10 1, 2008 and October 28, 2009 and Defendant Housewaresonly.com copied and published over
11 one-hundred-fifty of these product descriptions on their website between March 17, 2010 and
12 July 17, 2010.

13 21. Attached as Exhibit I is a list of products uploaded to the Reliabuy.com
14 website along with upload dates and notation of each description copied without permission
15 and published on the Housewaresonly.com site.

16 22. Upon information and belief, Defendant Housewaresonly.com created an
17 additional website on September 22, 2010 called "RestaurantKitchenWarehouse.com." Prior
18 to September, 2010, the Reliabuy.com website focused on general consumer goods. In
19 September, 2010 the Reliabuy.com website was redesigned to focus specifically on the
20 'Commercial Discount Restaurant Equipment' niche, and the Metatag of the entire
21 Reliabuy.com website was changed from "The Reliable Way to Shop Online" to "Discount
22 Commercial Kitchen & Restaurant Equipment." On 9/22/10, shortly after AWE made this
23 change to the Reliabuy.com website, Defendants registered a website domain entitled
24 "RestaurantKitchenWarehouse.com" to address the very same Commercial Discount
25 Restaurant Equipment nich and copied over two-hundred product descriptions created and
26 owned by AWE and published at the Reliabuy.com website.
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CAUSES OF ACTION

COUNT I

COPYRIGHT INFRINGEMENT

23. AWE incorporates the allegations made in paragraphs 1-22 as if fully set forth herein.

24. Defendants have willfully committed copyright infringement under 17 U.S.C. § 501 et. seq., directly, by inducement, or by way of contributory liability, by knowingly aiding, causing, or committing, the unauthorized practice or execution of one or more exclusive rights owned by AWE. set forth in 17 U.S.C. § 106, said exclusive rights having been perfected by U.S. Copyright Service Requests as identified in Attached Exhibit A.

COUNT II

VIOLATIONS OF THE LANHAM ACT

25. AWE incorporates the allegations made in paragraphs 1-22 as if fully set forth herein.

26. Defendants' unauthorized use of AWE's copyrighted materials and their reproduction and emulation of AWE's Reliabuy.com website are intended to cause confusion, mistake or to deceive consumers as to the source of origin of their products. Defendants' actions are likely to cause member of the public who search for the Reliabuy.com website and, as a result find or see the Housewaresonly.com or RestaurantKitchenWarehouse.com websites, to believe that the Housewaresonly.com and RestaurantKitchenWarehouse.com websites have an affiliation, connection, association, origin, sponsorship of Reliabuy.com or vice versa. Defendants' actions constitute a false designation of origin in violation of the Lanham Act, 15 U.S.C. § 1125(a)(1).

27. AWE has been and will continue to be irreparably harmed by Defendants' actions unless Defendants are enjoined from continuing their unauthorized use of AWE's copyrighted and other materials and from falsely representing the actual origin of their goods and services.

1 infringing acts alleged herein, consistent with 17 U.S.C. § 504(a)(1), or, at its election, an
2 award of statutory damages consistent with 17 U.S.C. § 504(a)(2).

3 B. An order entering judgment in favor of AWE and enjoining any further acts of
4 infringement of the copyrights owned or controlled by AWE and further ordering the
5 destruction of all articles used (such as master disks or data models) in the acts of
6 infringement, consistent with remedies available under 17 U.S.C. § 503 and 15 U.S.C. § 1118.

7 C. An award of full costs and reasonable attorney's fees against Defendants and in
8 favor of AWE pursuant to 17 U.S.C. § 505.

9 D. Such other further relief the Court may deem just and proper.

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11 **JURY DEMAND**

12 Asher Worldwide Enterprises LLC demands a trial by jury on all issues presented in
13 this Complaint.

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15 Dated this 18th day of July, 2011.

16 Respectfully submitted,

17 /s/ Philip P. Mann
18 Philip P. Mann, WSBA No: 28860
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CERTIFICATE OF SERVICE

I hereby certify that on the day indicated below, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties that have appeared in this matter.

Executed on July 18th, 2011.

/s/ Philip P. Mann
Philip P. Mann